

A BRIEF ANALYSIS OF THE PARIS CLIMATE CHANGE CONFERENCE

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The Paris Climate Change Conference convened from 29 November to 13 December 2015, in Paris, France. It included the 21st session of the Conference of the Parties (COP 21) to the UN Framework Convention on Climate Change (UNFCCC) and the 11th session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP 11). Three subsidiary bodies (SBs) also met, the 43rd sessions of the Subsidiary Body for Scientific and Technological Advice (SBSTA 43) and the Subsidiary Body for Implementation (SBI 43), and the 12th part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP 2-12).

The Paris Climate Change Conference brought together over 36,000 participants, nearly 23,100 government officials, 9,400 representatives from UN bodies and agencies, intergovernmental organizations and civil society organizations, and 3,700 members of the media.]

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In Paris, we have seen many revolutions. The most beautiful, most peaceful revolution has been achieved, a climate revolution. —François Hollande, President of France

The 2015 Paris Climate Change Conference was perhaps destined to succeed. After a bruising failure in Copenhagen in 2009 to produce a legally-binding agreement, many felt that Paris could not afford to fail. Yet there was also concern that the outcome would be watered-down or meaningless. In the end, the outcome of UNFCCC COP 21 exceeded expectations, producing an agreement that while perhaps not a revolution, is an important step in the evolution of climate governance and a reaffirmation of environmental multilateralism.

At COP 21, 195 countries gathered to complete the task they had set for themselves in Durban, in 2011, to complete a “protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all parties.” This brief analysis explores the extent to which parties fulfilled this mandate, in terms of universal participation, but also in terms of the Paris Agreement’s ability to catalyze ambitious action by parties and action by a wide range of actors, which many cited as indispensable to address the climate crisis.

EVOLUTION AND REVOLUTION

The Paris Agreement can be characterized as an evolution in climate governance, and a revolution in the UNFCCC COP process. At the center of the Paris Agreement are five-year cycles: each nationally determined contribution (NDC) cycle is to be more ambitious than the last and a global “stocktake” will inform collective efforts on mitigation, adaptation and support, and occur midway through the contribution cycle, every five years after 2023.

Through these cycles, parties are to “ratchet up” efforts to keep global temperature rise “well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.” To track progress, parties are bound to a transparency framework, which represents the legally-binding portion of the agreement, alongside an obligation to undertake and communicate their NDCs.

The Paris Agreement also anchors, strengthens and creates institutions and mechanisms, particularly for means of implementation. The decision supporting the Agreement identifies modalities to be created or established for several new mechanisms, such as the new Paris Committee for Capacity-building and the mitigation and sustainable development mechanism. The decision also requests SBSTA to develop new modalities to account for public climate finance.

As many pointed out during the COP closing plenary, the Paris Agreement, as a compromise, “is good, but not perfect.” The communication of NDCs is legally-binding, but their content and targets are not. The Agreement includes reference to loss and damage, and the Warsaw International Mechanism on Loss and Damage associated with Climate Change Impacts, as a distinct article from adaptation. This separation was a “win” for many small island developing states (SIDS), yet the explicit exclusion of liability and compensation in the decision was a disappointment to many, as the costs associated with loss and damage cannot be covered by risk insurance alone.

In the immediate term, developed countries are not bound by the Agreement to increase their mitigation

or support efforts beyond existing commitments. As many lamented, the US\$100 billion finance mobilization goal, set to be reached by developed countries in 2020, is “essentially extended in the decision through 2025,” after which time parties will have to negotiate a new collective goal, which some interpreted as including an expectation that some developing countries should participate in the mobilization.

The inclusion of human rights in the preamble of the agreement was celebrated by many, including Venezuela and Bolivia. This makes the Paris Agreement the first multilateral environmental agreement to recognize human rights. The preamble also includes concepts not traditionally considered “climate issues,” such as intergenerational equity, climate justice and the right to health. Yet the Agreement does not operationalize these rights throughout, which disappointed, in particular, gender advocates who pointed out that the final text omits references to gender responsiveness that were present in a number of sections in earlier drafts.

In terms of the broader development of global climate governance, the Agreement reflects an evolution of the “bottom-up” approach. The Paris Agreement can be described as a hybrid between a top-down, rules-based system and a bottom-up system of pledge and review. The NDCs “codify” the bottom-up approach that emerged from Copenhagen. Yet, many pointed to “vestiges” of a Kyoto Protocol-type, top-down system, in the form of the common rules for transparency and the compliance mechanism, although some noted that the compliance mechanism is “merely” facilitative in nature as it lacks an enforcement branch. In short, the procedural aspects of the Paris Agreement are legally-binding. Nevertheless, most substantive elements, including the specific goals of the NDCs that will be housed in a public registry maintained by the Secretariat, are not legally-binding.

The Agreement also represents an evolution in how parties address differentiation. The Agreement builds on the compromise in Lima, which drew from a 2014 US-China joint announcement on climate change, that adds the element of “in light of different national circumstances” to the end of the familiar CBDR and respective capabilities. It makes no explicit mention of the annexes of the Convention, the historic harbingers of differentiation, but only developed and developing countries, with subtle re-alignments in various sections. The NDCs represent, as US Secretary of State John Kerry called them, a “monument to differentiation”: each country determines its “fair contribution,” according to its respective capabilities and in light of its “different national circumstances.”

The transparency framework is, according to one observer “subtly trifurcated,” asking all to take legally-binding reporting requirements, with recognition of developing countries’ need for support, and a further recognition of the special capacity-building needs of SIDS and least developed countries. As insisted by many developing countries, the provision of support is more strictly bifurcated, as developed countries “shall provide financial resources,” while other countries are encouraged to “provide such support voluntarily.”

Achieving such an evolution in global governance requires nothing short of a procedural revolution. This was the major innovation of the French Presidency. Under the guidance of COP 21 President Laurent Fabius, COP 21 managed to uphold a highly-transparent and inclusive process for parties, which catered to the needs of individual states, while challenging parties to craft an agreement that was more substantive than many thought possible.

The French borrowed the *indaba* model from the Durban COP, and learned from Copenhagen that Heads of State and Government provide political guidance and should not negotiate text. In a process that started before the 2014 Lima COP, the French Presidency worked in partnership with the Peruvian Presidency, to convene several ministerial meetings “to get the ministers well-acquainted.”

On the margins of the meetings organized by the French Presidency, a group of approximately 15 “like-minded” ministers from different regions and groups was brought together by the Marshall Islands. These informal meetings formed the basis of what became known as the “High-Ambition Coalition.” This loose alliance, eventually representing up to 100 countries, rallied around a list of “ambitious asks,” such as a clear long-term goal and five-year review cycles, creating a show of solidarity that some said effectively marginalized those not in the group. Many noted that these ambitious asks eventually found their way into the Agreement.

Another procedural revolution by the Presidency was to keep the full responsibility for the text’s development on the parties’ shoulders. Ministers had to engage with the lengthy, heavily bracketed text parties had developed in the ADP contact group, and subsequent iterations released during the second week faithfully reflected parties’ consultations. By not dropping a surprise text late in the proceedings, the French Presidency ensured that the text was party-owned and parties understood they had the collective responsibility for its success or failure. Many parties had quietly speculated throughout the meeting that the Presidency had its own text, but regardless of its existence, one was never unveiled. This galvanized ministers to do the heavy lifting of sorting through options and brackets themselves.

The transparency of the process, as one delegate put it, drove the ambition of what parties could achieve; this time, there was no “easy out of rejecting the President’s text.” Above all, the French Presidency said it would, and did, listen. That every party praised the Presidency is not only a tribute to the French Presidency, but a recognition that they all believed their positions were heard.

A PARTICIPATORY OR AN AMBITIOUS EVOLUTION?

Universal participation can come at the expense of ambition. Oftentimes, bringing all on board can result in a watering down of the overall level of ambition. At first glance, this appears to be the case, leading some observers to reject the deal as “business as usual.” Contributions that are nationally-determined, however, became a “necessity” to achieve universal participation because no single set of rules or targets could accommodate the vastly different circumstances of 195 states. The current set of 189 intended NDCs, representing 95% of global emissions" which many lauded as a remarkable level of participation" put collective efforts only on a path to an approximately 3° C temperature increase. For some, much of the success of the Paris Agreement will hinge on its ability to encourage parties to ratchet up their contributions to a sufficient level of ambition to safeguard the planet.

One way to increase ambition that many sought when they arrived in Paris was a legally-binding agreement. Yet specifying that an agreement is legally binding does not guarantee implementation and may reduce both ambition and participation. As Minister Vivian Balakrishnan of Singapore observed, “the Kyoto Protocol had the best of intentions,” yet was modest in its aims. It also lacked participation by key countries. While the NDCs represent significant participation, their non-legally binding character raised concerns over their low collective ambition.

Others viewed goal-setting as a way to increase the ambition of the agreement. The Agreement’s references to pursuing efforts to limit global average temperature rise to 1.5° C, coupled with references to peaking emissions as soon as possible, and achieving a balance between anthropogenic emissions and removals by sinks, a phrase many believe refers to net-zero emissions, are significantly more ambitious than many expected before COP 21. These new goals have implications for governments. As one delegate observed, the intended NDCs submitted before COP 21 need to be re-evaluated in light of the goals articulated in the Paris Agreement. Some observers hoped this would inspire at least some countries to revise their intended NDCs into more ambitious NDCs.

The transparency framework and the global stocktake were described by some as the Agreement’s “mechanisms for ambition.” The dual obligation to report and take stock of mitigation, adaptation and support every five years creates a collective assessment of achievements and needed efforts. Reviewing the extent of support provided “places a microscope” on developed countries to provide adequate support to meet developing countries’ mitigation and adaptation ambitions. Many hoped this would also provide assurances to help some countries remove the conditionalities from the mitigation section of their INDCs.

For many developing countries, post-2020 ambition relies on pre-2020 ambition. The Paris Outcome includes the Durban Platform’s workstream 2, tasked to address the pre-2020 mitigation gap, in a number of ways. These include a strengthened technical examination process (TEP) on mitigation that strives to involve more developing country experts and other actors, and formalizes the role of the technology and financial mechanisms of the Convention in the process. Also a new TEP is established on adaptation, welcomed by many developing countries where adaptation is as important as mitigation. Some viewed these institutional links as potentially moving the TEPs beyond “talk shops” and into “solutions spaces” where technologies and practices for both mitigation and adaptation become globally disseminated.

In addition, a facilitative dialogue at COP 22 will assess progress in pre-2020 implementation, and a high-level event at each COP from 2016-2020 will build on the current and previous COP Presidencies’ Lima-Paris Action Agenda (LPAA) initiative. Whether these processes together can raise pre-2020 ambition will only be determined in the coming years. For many, the answer to unlocking pre-2020 ambition lies in the Convention’s ability to engage transnational and subnational actors.

CREATING A “CLIMATE REVOLUTION FOR ALL”

As noted by COP 21 President Fabius, the success of the Paris conference would not only depend on a universal intergovernmental agreement. Action by state and non-state actors will ultimately determine whether Paris will go down in history as “the beginning of the end of the fossil fuel era,” as one country announced. The Paris Agreement could deliver in this area in three ways: through the agreement; by showcasing and mobilizing action by all actors; and by expanding the UNFCCC’s role in the fast-changing global implementation space.

At the Leaders Event on 30 November, numerous Heads of State and Government called for Paris to

send strong long-term signals. UN Secretary-General Ban Ki-moon called on Paris to send a clear message to markets that transition to a low-carbon, climate resilient global economy is “inevitable, beneficial and already under way.” Also, some countries called for the Agreement to provide assurances that climate finance would be available and scaled up post-2020, in particular for the most vulnerable.

The Paris Agreement indeed sends strong signals for climate action by all. The ambitious goals of the Agreement, five-year review cycles, and the transparency framework were welcomed by many as much-needed signals to markets to enable investments to be redirected to low-carbon and climate-resilient development. Some also pointed out that the universal nature of the agreement and near-universal coverage of intended NDCs alone send signals that opportunities for investments, innovation and technology development are opening up around the world. Article 6 on cooperative approaches and mechanisms was also praised for “having something for everyone” and giving carbon markets a much-needed, renewed basis for support, complete with demand for credits driven by countries’ progressively ambitious NDCs.

Another important goal set for COP 21 was to accelerate climate action by both state and non-state actors. In forming the LPAA in late 2014, the Peruvian and French COP Presidencies, together with the UN Secretary-General and the UNFCCC Secretariat, built on the momentum achieved by the September 2014 UN Climate Summit to bring non-state actors “inside the COP walls,” as described by COP 20 President Manuel Pulgar-Vidal.

Despite some concern that COP 21 would be a one-off *tour de force* of state and non-state actor commitments, many initiatives were launched or strengthened in Paris that will build momentum in the longer term. These include India’s International Solar Alliance involving more than 120 countries and the private investor-led US\$2 billion Breakthrough Energy Coalition. Also, thousands of pledges of action and hundreds of billions of dollars in commitments to emission reductions and resilience measures were articulated through and alongside the LPAA, ranging from electrification in Africa to emission cuts in forest countries and climate risk insurance in SIDS.

Finally, many felt the Durban Platform, in particular its pre-2020 workstream, offered the UNFCCC a chance to reposition itself as the hub for global climate action. By Paris, this opportunity was seized at least three ways: the LPAA’s Non-State Actor Zone for Climate Action (NAZCA) portal and the public registry for NDCs, both maintained by the UNFCCC Secretariat, will serve as important focal points for aggregated information on climate plans, actions and support. The strengthened mitigation TEP, new adaptation TEP, and the LPAA-based high-level events, too, are likely to spur accelerated engagement with non-state actors within the UNFCCC space. Also, while the Paris outcome decision simply includes an invitation to non-party stakeholders to scale up their efforts and support actions, UNFCCC COPs have already managed to establish themselves firmly as the main annual “cross-fertilization space” for civil society, scientists, businesses and industry from all around the world to rally public attention, network and share best practices.

“VIVE L’UN, VIVE LA PLANETE, VIVE LA FRANCE”

—François Hollande, President of France

Getting to an agreement was an arduous, lengthy task, and yet, as many recalled during the closing plenary “the work starts tomorrow.” Work to catalyze climate action before 2020 is pressing, and immediately lying ahead is the substantial technical and methodological work in order to prepare the many modalities to support the Paris Agreement for when it enters into force. It was not lost for many that the entry into force is not a foregone conclusion, given that 55 countries representing at least 55% of global emissions are required to ratify. Before 2020, many eyes will be on the major emitters whose ratification is necessary for the Paris Agreement to “come into effect and be implemented by 2020,” thereby completing the final leg of the Durban mandate.

During the COP 21 closing plenary, many lauded the Paris Agreement as an ambitious, fair and universal climate agreement, and many more celebrated the return to successful multilateral efforts to address climate change. Some observers viewed Paris as the culmination of a vital year for the UN development agenda, with the adoption of the 2030 Agenda for Sustainable Development, including its Sustainable Development Goals, and the Addis Ababa Action Agenda on financing for development, which together with the Paris Agreement on climate change can be said to provide a strong basis for multilateralism for the coming decade.

After years of doubt and indecision, the Paris Agreement represents renewed faith that multilateralism can address pressing challenges facing the international community. With its adoption on Saturday, 12 December 2015, most participants agreed with UNFCCC Executive Secretary Christiana Figueres that “we must, we can and we did.”